



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KAKAMEGA**  
**SUCCESSION CAUSE 89 Of 1989**  
**IN THE MATTER OF THE ESTATE OF DINGLI KIDANYA(Deceased)**

**B E T W E E N:**

**ESTONE KALEME.....Petitioner/ Applicant**

**and**

**The Estate of HEZEKIAH KYADIVA/LEDESI MMBOGA CHADIVA**

**The Estate of JAMES ABWUNZA DINGLI/RUTH IMARI ABWONZA**

**The Estate of SELINA KANGUHA/BERNARD STANLEY OCHINJO**

**KENDRICK LIHASI.....Beneficiaries**

**RULING**

1. The Court has before it an application for the Confirmation of Grant for the Estate of Kingili Kidanya. Dingli Kidanya passed away on 8<sup>th</sup> December 1982 aged 69 years. He was a farmer. He was survived by the following offspring:

- (1) Estone Kalemela Dingli (Son)
- (2) Hezekiah Kyadiva Chadiva (Son)
- (3) James Abwunza Dingli (Son)
- (4) Selina Kanguha

It is said there was also a grandson called Bernard Stanley Ochingo.

2. At the time of his death the Deceased owned two parcels of land namely, Kakamega/Lugova/451 (0.8ha) and Kakamega/Lugovo/460 (1.4 ha). Although the Schedule of Assets appears to be omitted, the Official Searches for those properties confirm that ownership. The Administrator was appointed pursuant to the grant of Letters of Administration issued on 13<sup>th</sup> July 1989. Shortly thereafter, the Administrator transferred at least one of those properties into his own name.

3. The Administrator filed a Summons for Confirmation of grant on 28<sup>th</sup> May 2019. He lists that the Deceased was survived by the following family members:

- (a) Estone Kalemela Dingli
- (b) Hezekiah Kyadiva
- (c) James Abwunza Dingli
- (d) Bernard Stanley Ochinjo

(e) Kenrick Lihasi

That List omits the daughter of the Deceased Salina Kanguha. It also omits any spouses that may have been alive at the time of the death.

4. At paragraph 8 of the Supporting Affidavit the Administrator sets out the intended distribution. He names two new person, Ruth Imari Abwonga who is the widow of James and Ledesi Mmboga Chadiva who is the widow of Hezekiah. He names Kenrick Lihasi as the grandson and Bernard Stanley Ojinjo as a son. When the matter came before Justice Njagi on 19<sup>th</sup> October 2020 he directed that the Administrator file a letter from the Chief verifying who are the heirs/dependants/beneficiaries of the Estate. That Letter is dated 11th November 2019 and is incorrectly address to the Magistrate. The Letter is signed by the Assistant Chief Chango Sub-Location. Rather than providing the verification required, that Letter purports to direct the Court on the correct distribution of the Estate.

5. It is notable that the Letter defines two individual differently from the Summons. Firstly, Bernard is described as a grandson – not a son and secondly, Kenrick Lihasi is described as a BUYER not a grandson as alleged. It is not explained from whom the portion of land was purchased. Those omissions and discrepancies are significant. When the matter came before the Court the Administrator informed the Court that Selina passed away in 1996. Also the Deceased is now said to be called Philip Dingili Kidanya, yet the name Philip was not included in the death certificate or any documents filed. There was some prevarication as to the identity of “Philip”.

6. In the circumstances, this Court is not in a position to confirm the grant on the information currently before it. Rather than dismiss the Application, it is ordered that every surviving member shall attend Court to signify their agreement to the distribution and the verify the identities of the beneficiaries.

7. Further, in the circumstances, this Court is not satisfied that the Administrator is not being fully frank with the Court. He will be afforded one final chance after which this Court will consider revoking the Grant.

Order accordingly,

**FARAH S. M. AMIN**

**JUDGE**

**SIGNED DATED AND DELIVERED at KAKAMEGA on this the 20th day of January 2021**

In the Presence of:

Court Assistant: Fred Owegi

Applicant: Estone Kidanya and Bernard Stanley Otichillo in person